

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

	)	
In the Matter of	)	
	)	
CERTAIN BATTERY-POWERED	)	Investigation No. 337-TA-314
RIDE-ON TOY VEHICLES	)	
AND COMPONENTS THEREOF	)	
	)	

ORDER

On May 15, 1990, Kransco filed a complaint with the Commission alleging violations of section 337 in the importation of certain battery-powered rides on toy vehicles and components thereof. The complaint alleged infringement of claims of five U.S. patents owned by Kransco: (1) claim 1 of U.S. Letters Patent Des. 299,666 ("the '666 patent"); (2) claim 1 of U.S. Letters Patent Des. 292,009 ("the '009 patent"); (3) claims 1 through 6 of U.S. Letters Patent 4,709,958 ("the '958 patent"); (4) claims 1, 2, 4, 8, 9, 16, and 19 of U.S. Letters Patent 4,558,263 ("the '263 patent"); and (5) claims 1 through 4 of U.S. Letters Patent 4,639,646 ("the '646 patent").

The Commission instituted an investigation into the allegations of Kransco's complaint and published a notice of investigation in the Federal Register. 55 F.R. 25179 (June 20, 1990). Chien Ti Enterprise Co., Ltd., was named as respondent.

On December 5, 1990, the presiding administrative law judge (ALJ) issued an initial determination (ID) granting the motion of complainant Kransco for summary determination. The ID concluded that a violation of section 337 had been established in the importation of certain battery-powered ride-on toy vehicles and components thereof by reason of infringement of the five patents at

issue.

On January 4, 1991, the Commission determined on its own motion to review the ID's findings and conclusions concerning importation. The Commission determined not to review the remainder of the ID. The notice of review specifically requested that the parties file briefs discussing the issue under review, and solicited comments from the parties, interested government agencies, and any other persons concerning the issues of remedy, the public interest, and bonding.

Complainant Kransco and the Commission investigative attorney each filed a brief and a reply brief addressing both the issue under review and matters pertaining to remedy. Respondent Chien Ti did not file a brief. No comments were filed by interested government agencies or other persons.

Having examined the record in this investigation, including the ID, and the arguments submitted by the parties in their briefs and replies thereto, the Commission has determined that there has been an importation or sale for importation of infringing battery-powered ride-on toy vehicles by respondent Chien Ti. The Commission accordingly affirms the ID's conclusion that a violation of section 337 has been established.

Having determined that there is a violation of section 337, the Commission considered the questions of the appropriate remedy, bonding during the Presidential review period, and whether the statutory public interest consideration preclude the issuance of a remedy. The Commission considered the submissions of the parties and the entire record in this investigation. The Commission has determined that the appropriate form of relief is a general exclusion order directed to products that infringe the '666 or '009 design patents and a limited exclusion order directed to products that infringe the claims at issue of the '958, '263, or '646 product patents. The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the

aforementioned relief. The Commission has established that the bond during the Presidential review period shall be in the amount of 40 percent of entered value of imported articles covered by claims at issue of the '666, '263, or '958 patents, and 19 percent of entered value of imported articles covered by the claims at issue of the '009 or '646 patents.

Accordingly, it is her b ORDERED THAT --

1. Battery-powered ride-on toy vehicles and components thereof covered by claim 1 of U.S. Letters Patent Des. 299,666 are excluded from entry into the United States for the remaining term of the patent, except under license of the patent owner.
2. Battery-powered ride-on toy vehicles and components thereof covered by claim 1 of U.S. Letters Patent Des. 292,009 are excluded from entry into the United States for the remaining term of the patent, except under license of the patent owner.
3. Battery-powered ride-on toy vehicles and components thereof manufactured abroad by or on behalf of Chien Ti Enterprise Co., Ltd., of Taipei, Taiwan, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related entities, or their successors or assigns, that are covered by claims 1, 2, 3, 4, 5, or 6 of U.S. Letters Patent 4,709,958 are excluded from entry into the United States for the remaining term of the patent, except under license of the patent owner.
4. Battery-powered ride-on toy vehicles and components thereof manufactured abroad by or on behalf of Chien Ti Enterprise Co., Ltd., of Taipei, Taiwan, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related entities, or their successors or assigns, that are covered by claims 1, 2, 4, 8, 9, 16, or 19 of U.S. Letters Patent 4,558,263 are excluded from entry into the United States for the remaining term of the patent, except under license of the patent owner.
5. Battery-powered ride-on toy vehicles and components thereof manufactured abroad by or on behalf of Chien Ti Enterprise Co., Ltd., of Taipei, Taiwan, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related entities, or their successors or assigns, that are covered by claims 1, 2, 3, or 4 of U.S. Letters Patent 4,639,646 are excluded from entry into the United States for the remaining term of the patent, except under license of the patent owner.

6. In accordance with 19 U.S.C. § 1337(l), the provisions of this **Order** do not apply to battery-powered ride-on toy vehicles and components thereof imported by or for the United States.
7. The articles identified in paragraphs (1), (3), and (4) of this **Order** are entitled to entry into the United States under bond in the amount of forty (40) percent of their entered value from the day after this **Order** is received by the President, pursuant to 19 U.S.C. § 1337(j)(3), until such time as the President notifies the Commission that he approves or disapproves this **Order**, but, in any event, no later than 60 days after the date of receipt of this **Order** by the President.
8. The articles identified in paragraphs (2) and (5) of this **Order** are entitled to entry into the United States under bond in the amount of nineteen (19) percent of their entered value from the day after this **Order** is received by the President, pursuant to 19 U.S.C. § 1337(j)(3), until such time as the President notifies the Commission that he approves or disapproves this **Order**, but, in any event, no later than 60 days after the date of receipt of this **Order** by the President.
9. The Commission may amend this **Order** in accordance with the procedure described in section 211.57 of the Commission's Interim Rules of Practice and Procedure, 19 C.F.R. § 211.57.
10. A copy of this **Order** shall be served upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, and the Federal Trade Commission.
11. Notice of this **Order** shall be published in the Federal Register.

By order of the Commission.

Kenneth R. Mason  
Secretary

Issued: April 9, 1991